

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

IN THE MATTER OF THE SEARCH OF
INFORMATION THAT IS STORED AT
PREMISES CONTROLLED BY GOOGLE,
1600 AMPHITHEATRE PARKWAY,
MOUNTAIN VIEW, CALIFORNIA 94043

Case No. 22-MR-1161-JHR

Filed under Seal

UNITED STATES' RESPONSE TO
GOOGLE LLC'S MOTION TO QUASH SEARCH WARRANT

On August 7, 2022, the United States sought, and U.S. Magistrate Judge John F. Robbenhaar approved, a search warrant requiring Google LLC to provide certain data within its possession and control, specifically including location history data for Google services users that were located within the immediate area of seven specified “geofence” locations—four of which were locations of murders of local Muslim men (the most recent of which was August 5, 2022), and three of which were significant locations identified in the investigation related to those murders. The warrant was served on Google the same day.

Google initially refused to comply with the warrant. After extensive discussion over the course of several weeks between the United States and Google wherein Google objected to the parameters of the search warrant, the United States explained to Google the investigatory necessity of obtaining the search warrant’s returns as described and commanded in the warrant, and Google continued its refusal to provide the results and filed a Motion to Quash the warrant on September 7, 2022. *See* Doc. 10.

The Government maintains that the warrant is perfectly consistent with the mandates of the Fourth Amendment and that United States Magistrate Judge Robbenhaar properly authorized

the search. However, in part because the investigation has progressed, the Federal Bureau of Investigation withdrew the search warrant on October 4, 2022. Doc. 13. The United States intends to submit an updated search warrant to the Court in lieu of the withdrawn search warrant. As such, there is no longer a case or controversy before this Court, thereby rendering the current motion moot. *Seneca-Cayuga Tribe of Okla. v. Nat'l Indian Gaming Comm'n*, 327 F.3d 1019, 1028 (10th Cir. 2003) (federal courts [may] only decide actual, ongoing cases or controversies). In its place, the United States anticipates that the Federal Bureau of Investigation will submit an amended search warrant application and affidavit to the Court.

WHEREFORE, the United States respectfully request that the Court deny Google LLC's Motion to Quash Search Warrant as moot.

Respectfully submitted,

ALEXANDER M.M. UBALLEZ
United States Attorney
/s/ Electronically Filed
Fred Federici
Kim Brawley
Tavo Hall
Assistant United States Attorneys
201 3rd Street N.W., Suite 900
Albuquerque, NM 87102
(505) 346-7274

I HEREBY CERTIFY that, on October 5, 2022, a copy of this motion and its exhibit were emailed to opposing counsel of record, Ms. Lorna M. Wiggins at lwiggins@wwwlaw.us, and Ms. Hayley L. Berlin at HBerlin@perkinscoie.com.

/s/ _____
TAVO HALL
Assistant United States Attorney